

TCEQ DOCKET NO. 2020-0875-IHW-E

EXECUTIVE DIRECTOR OF  
THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY,  
Petitioner

VS.

ANN RIDLEHUBER,  
Respondent

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR’S RESPONSE TO MADISON RIDLEHUBER’S MOTION FOR REHEARING**

The Executive Director (the “ED”) of the Texas Commission on Environmental Quality (the “TCEQ”), by and through a representative of the Litigation Division, files this response (“Response”) to the Request/Motion to Set Aside Default Order (“Motion for Rehearing” or “Motion”) filed on September 7, 2022, by counsel for Madison Ridlehuber. The ED respectfully requests that the Commission deny the Motion.

**I. Introduction**

At the August 24, 2022, Commissioner’s Agenda Meeting (the “Agenda”), the Commission considered and approved the Default Order for which Madison Ridlehuber seeks rehearing. At issue were four violations alleging Ann Ridlehuber (“Respondent”): (1) caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste into or adjacent to any water in the state; (2) failed to conduct hazardous waste determinations and waste classifications; (3) failed to keep hazardous waste containers closed, except when adding or removing waste; and (4) failed to comply with the 180-day accumulation time limitation for the storage of industrial hazardous waste. The Default Order also assessed an administrative penalty of \$26,250.00 and imposed appropriate corrective action ordering provisions. The Commission-issued Order was mailed to Respondent on August 29, 2022. On September 7, 2022, counsel for Madison Ridlehuber filed a Motion for Rehearing, claiming she was in the process of being appointed as Guardian for Respondent.

**II. Arguments**

In support of her Motion, Madison Ridlehuber claims Respondent has dementia and has

been living in an assisted living facility for “almost a year,” that Respondent “has not been made aware of these proceedings,” and that the Default Order should be set aside “in the interest of due process, equal protection and fairness.”

Madison Ridlehuber’s Motion fails to identify, with any legal or factual particularity, error with the Default Order. To the extent that any arguments can be construed in the Motion, they either fail to establish error in the Order or fail to present arguments that are within the Commission’s jurisdiction to consider. Accordingly, the Motion should be denied.

**A. The ED achieved adequate notice under TCEQ rules.**

Madison Ridlehuber vaguely implies that Respondent did not receive notice but fails to substantiate that claim with any factual particularity or identify any Finding of Fact or Conclusion of Law in the Order that her claims would allegedly refute. The claim that Ann Ridlehuber “has not been made aware of these proceedings,” could implicate issues of adequate notice, but subjective unawareness on the part of Respondent does not necessarily mean sufficient legal notice was not achieved. 30 TEX. ADMIN. CODE § 70.104(b) states notice shall be timely served if the EDFARP is “sent to the respondent by registered or certified mail, return receipt requested, no later than the 10<sup>th</sup> day after the date on which the [EDFARP] is issued.” TCEQ rules further provide that service may be obtained by mailing to a party’s last known address<sup>1</sup>, in accordance with the Texas Rules of Civil Procedure.

The ED mailed the EDFARP via certified mail to Respondent’s last known address on May 20, 2022, and was filed on the same day. USPS.com “Track & Confirm” delivery confirmation records show the EDFARP was delivered to Respondent on June 14, 2022, satisfying the requirements of 30 TEX. ADMIN. CODE § 70.104(b) for notice (“Attachment A). Alleging a general lack of awareness of the proceedings by Respondent does not, on its own, demonstrate a failure of the ED to provide notice and is not a legal argument to which the ED can respond.

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<sup>1</sup> 30 TEX. ADMIN. CODE § 1.11; 30 TEX. R. CIV. P. 21a

Before and after the notice of the EDFARP, ED staff made numerous attempts to communicate with Respondent, both written and telephonic, over the course of the past four years to make her aware of this matter. On November 2, 2018, a Notice of Violation was mailed to Respondent's last known address. On June 16, 2020, a Notice of Enforcement was mailed to Respondent's last known address. On June 25, 2020, ED staff called Respondent to discuss the recently mailed Notice of Enforcement. On January 22, 2021, a Proposed Agreed Order was mailed to Respondent's last known address. On January 29, 2021, ED staff called Respondent to discuss the recently mailed Proposed Agreed Order. On March 29, 2021, ED staff mailed a settlement termination letter to Respondent's last known address. On July 13, 2021 and August 19, 2021, ED staff called Respondent to discuss this matter and left a message. On August 5, 2022, the ED mailed a notice of a Default Order scheduled to be presented to the Commission for its approval on August 24, 2022, to Respondent's last known address ("Attachment B"). Madison Ridlehuber acknowledges the address to which the Notice of Violation, Notice of Enforcement, Proposed Agreed Order, settlement termination letter, EDFARP, Agenda Notice, and Order were mailed is a valid address for Ann Ridlehuber. To date, Madison Ridlehuber's Motion is the first and only response.

**B. The Commission lacks jurisdiction to hear constitutional claims.**

In her Motion, Madison Ridlehuber requested "in the interest of due process, equal protection and fairness," that the Default Order be set aside. Though no specific constitutional provision or case law is identified and no legal analysis performed in her Motion, Madison Ridlehuber appears to argue that the Default Order violates Respondent's right to due process under the U.S. and/or Texas Constitutions. The Commission lacks jurisdiction to hear such claims. "In accordance with separation of powers, jurisdiction over constitutional questions vests exclusively in the state's judicial branch."<sup>2</sup> Because the TCEQ is part of the executive branch, the

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<sup>2</sup> *City of Dallas v. Stewart*, 361 S.W.3d 562, 579 (Tex. 2012).

ED respectfully asserts that the Commission does not have jurisdiction to hear constitutional claims. Accordingly, the Commission should not consider constitutional claims in Madison Ridlehuber's Motion, to the extent they are present.

**C. Madison Ridlehuber's Motion fails to meet the statutory and rule requirements for Motions for Rehearing.**

Finally, Madison Ridlehuber's Motion does not meet the minimum requirements for a motion for rehearing under the Texas Government Code or Title 30 of the Texas Administrative Code. A motion for rehearing must contain (1) "the findings of fact or conclusions of law, *identified with particularity*, that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous" and (2) "a statement of the *legal and factual basis* for the claimed error." TEX. GOV'T CODE § 2001.146(g) and 30 TEX. ADMIN. CODE § 80.272(c)(4) and (c)(5). The Motion for Rehearing fails to do either of these things: the Motion does not claim or otherwise particularly identify any evidentiary or legal ruling in the Order as erroneous and the Motion does not state that any legal or factual errors were made. As Madison Ridlehuber has failed to allege any particular factual or legal errors in the Order, she consequently also failed to provide any factual or legal basis for the claimed error.

In *Tex. Comm'n on Env'tl. Quality v. Barua*, 632 S.W.3d 726 (Tex.App.—El Paso 2021, pet. denied), the court found that Appellee's (Barua) Motion for Rehearing failed to "articulate the points of error...in the motion for rehearing" and "accordingly, he failed to preserve them for review." *Id.* at 733. At issue in *Barua* was a TCEQ Default Order issued against Appellee, resulting from his failure to appear at multiple hearings. *Id.* at 730-731.<sup>3</sup>

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<sup>3</sup> Appellee filed a Motion for Rehearing with the Commission, which was overruled by operation of law on March 9, 2009. *Barua* at 731. Appellee then filed a petition for judicial review of TCEQ'S Default Order against him. *Id.* In it, he claimed TCEQ erred by entering a default order against him because he did not receive actual notice of the hearing dates. *Id.* Appellee's petition for judicial review contained an affidavit from Barua stating he sold the business shortly after the enforcement action commenced against him, did not return to the business address, and thus did not receive the notices sent. *Id.* The affidavit also stated he was out of the country when both hearings occurred. *Id.* After a bench trial, the trial court reversed TCEQ's default order and remanded the case. *Id.* TCEQ filed an appeal. *Id.* In *Barua*, TCEQ argued that Appellee had "failed to identify any finding of fact, conclusion of law, ruling, or other action by the agency that he claim[ed] was in error, or the legal basis upon which his claim [was] based." *Id.* at 731-732. In contrast, Appellee claimed his statement in the motion for rehearing that he was "out of town during most, if not all, of the previous hearings" implie[d] he did not receive actual notice. *Id.*

The Court in *Barua* explained that for a motion for rehearing “to be sufficient, ‘[t]he motion must set forth: (1) the particular finding of fact, conclusion of law, ruling, or other action by the agency which the complaining party asserts was error; and (2) the legal basis upon which the claim of error rests. *Quintana*, 225 S.W.3d at 203 (citing *BFE Waste Systems of North America, Inc. v. Martinez*, 93 S.W.3d 570, 578 (Tex.App.—Austin 2002, pet. denied)). Although neither element requires legal or factual briefing, ‘both elements must be present in the motion ... [and] *may not be supplied solely in the form of generalities.’ Id.” Id.* at 732 (emphasis own).

The facts in *Barua* are nearly identical to the facts of this case. In his motion for rehearing, Barua failed to identify any finding of fact or conclusion of law TCEQ’s default order against him that was in error and instead made generalized factual allegations related to his awareness of the proceedings. Similarly, Madison Ridlehuber fails to identify any allegedly incorrect finding of fact or conclusion of law in the Order she wishes to set aside and instead makes generalized factual allegations. Madison Ridlehuber’s Motion claims Respondent had no “awareness of these proceedings” but does not identify how that allegation shows or tends to show any error in the Order and also fails to state any concrete legal argument. The Motion requests “in the interest of due process, equal protection and fairness” that the Order be set aside, but fails to identify any finding of fact or conclusion of law in the Order that purportedly violates Respondent’s due process rights. All other statements in the Motion are vague factual allegations concerning Respondent’s circumstances which fail to even allude to an argument of factual or legal error in the Order.

Madison Ridlehuber’s Motion attempts to present the elements of TEX. GOV’T CODE § 2001.146(g) “solely in the form of [factual and legal] generalities.” *Barua* at 732. The Court in *Barua* made clear such generalities are not sufficient to satisfy minimum requirements of a Motion for Rehearing as set forth in TEX. GOV’T CODE § 2001.146(g) and 30 TEX. ADMIN. CODE § 80.272(c)(4) and (c)(5). The Order Madison Ridlehuber seeks to set aside contains numerous findings of fact and conclusions of law, none of which are disputed or even identified by Madison

Ridlehuber's Motion. Both the plain language of the Texas Government Code and the Court in *Barua* make clear: a motion for rehearing may not merely imply the factual and legal bases upon which a default order ought to be set aside, but must identify them with particularity. The Motion fails to do either.

In conclusion, Madison Ridlehuber's Motion does not contain (1) "the findings of fact or conclusions of law, identified with particularity, that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous," or (2) "a statement of the legal and factual basis for the claimed error." Therefore, the Motion does not meet the plain language requirements of TEX. GOV'T CODE § 2001.146(g) and 30 TEX. ADMIN. CODE § 80.272(c)(4) and (c)(5) for a motion for rehearing and, accordingly, should be denied.

**III. Prayer**

ACCORDINGLY, the ED respectfully requests that the Commission deny Madison Ridlehuber's Motion for Rehearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker,  
Executive Director

Erin E. Chancellor, Director  
Office of Legal Services

Gitanjali Yadav, Deputy Director  
Litigation Division



By \_\_\_\_\_

Taylor Pearson  
State Bar of Texas No. 24102342  
Litigation Division, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087  
P: (512) 239-3400  
F: (512) 239-3434  
Email: [taylor.pearson@tceq.texas.gov](mailto:taylor.pearson@tceq.texas.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of September, 2022, the original of the foregoing "Executive Director's Response to Madison Ridlehuber's Motion for Rehearing" ("Response") was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day true and correct copies of the foregoing Response were sent to the following persons by the methods indicated:

James Rainey  
Rainey & Rainey  
3809 West Waco Drive  
Waco, Texas 76710  
(254) 752-8644  
Email: [james@raineyandraine.com](mailto:james@raineyandraine.com)

Via E-Mail and Certified Mail, Return Receipt  
Requested, Article No. 7019 2280 0000  
0669 3058

Sheldon Wayne  
Office of Public Interest Counsel, MC 103  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Email: [Sheldon.Wayne@tceq.texas.gov](mailto:Sheldon.Wayne@tceq.texas.gov)

Via Electronic Filing

A handwritten signature in blue ink that reads "Taylor Pearson". The signature is written in a cursive style with a long horizontal stroke at the end.

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Taylor Pearson  
Staff Attorney, Litigation Division  
Texas Commission on Environmental Quality



**ATTACHMENT A**

## Track Another Package +

**Tracking Number:** 70190700000096267233

[Remove X](#)

Your item has been delivered and is available at a PO Box at 10:41 am on June 14, 2022 in AUSTIN, TX 78711.

**USPS Tracking Plus® Available** 

### **Delivered, PO Box**

June 14, 2022 at 10:41 am  
AUSTIN, TX 78711

**Get Updates** 

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**Text & Email Updates**



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**Tracking History**



**June 14, 2022, 10:41 am**

Delivered, PO Box  
AUSTIN, TX 78711

Your item has been delivered and is available at a PO Box at 10:41 am on June 14, 2022 in AUSTIN, TX 78711.

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**June 14, 2022, 10:18 am**

Available for Pickup  
AUSTIN, TX 78711

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**June 14, 2022, 6:43 am**Distribution to PO Box in Progress  
AUSTIN, TX 78701

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**June 14, 2022, 6:32 am**Arrived at Post Office  
AUSTIN, TX 78701

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**June 14, 2022, 2:13 am**Departed USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

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**June 13, 2022, 11:04 am**Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

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**June 12, 2022**In Transit to Next Facility

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**June 10, 2022, 7:44 am**Departed USPS Regional Facility  
OKLAHOMA CITY OK DISTRIBUTION CENTER

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**June 9, 2022, 12:52 pm**Arrived at USPS Regional Facility  
OKLAHOMA CITY OK DISTRIBUTION CENTER

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**May 23, 2022, 8:21 am**Forwarded  
HILLSBORO, TX

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**May 23, 2022, 6:37 am**Arrived at Post Office  
HILLSBORO, TX 76645

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**May 21, 2022, 10:06 pm**Departed USPS Regional Facility  
FORT WORTH TX DISTRIBUTION CENTER

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**May 21, 2022, 2:35 pm**

Arrived at USPS Regional Facility

FORT WORTH TX DISTRIBUTION CENTER

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**USPS Tracking Plus®**



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**Product Information**



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**See Less**

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

**ATTACHMENT B**

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 5, 2022

Ann Ridlehuber  
213 Highway Contract Route 1367  
Hillsboro, Texas 76645

Re: TCEQ Enforcement Action  
Ann Ridlehuber  
Docket No. 2020-0875-IHW-E

Dear Ms. Ridlehuber:

Enclosed for your records are copies of documents which were filed in the Chief Clerk's Office of the Texas Commission on Environmental Quality (TCEQ) so that the above-referenced matter may be included on the agenda of items to be considered for approval by the Commission at a public meeting scheduled for **August 24, 2022, at 9:30 a.m.** The meeting will be held at the TCEQ Park 35 Campus, located at 12118 North I-35, in Building E, Room 201S, in Austin, Texas.

On March 16, 2020, in accordance with section 418.016 of the Texas Government Code, Governor Abbott suspended various provisions of the Open Meetings Act that require government officials and members of the public to be physically present at a specified meeting location. To confirm how the meeting will be held, please visit the Commissioners' Agenda webpage at: [https://www.tceq.texas.gov/agency/decisions/agendas/comm/comm\\_agendas.html](https://www.tceq.texas.gov/agency/decisions/agendas/comm/comm_agendas.html) eight days before the Agenda.

If you have any questions you may contact me at the TCEQ Litigation Division at (512) 239-3400 or my e-mail address listed below.

Sincerely,

A handwritten signature in blue ink that reads "Taylor Pearson".

Taylor Pearson, Staff Attorney  
Litigation Division  
[Taylor.Pearson@tceq.texas.gov](mailto:Taylor.Pearson@tceq.texas.gov)

Enclosures

cc: Stephanie McCurley, Enforcement Division  
David Mann, Waco Regional Office  
Garrett Arthur, Public Interest Counsel  
Katherine McKenzie, Litigation Division

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**Ann Ridlehuber**

RN102319829

Docket No. 2020-0875-IHW-E

**Order Type:**  
Default Order**Media:**  
IHW**Small Business:**  
Yes**Location(s) Where Violation(s) Occurred:**  
718 Abbott Avenue, Hillsboro, Hill County**Type of Operation:**  
former metal plating operation**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$11,818.77 (2012-0555-IHW-E)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** April 22, 2022**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$26,250**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$26,250**Compliance History Classifications:**

Person/CN - High  
Site/RN - High

**Major Source:** No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** April 2014**Investigation Information****Complaint Date(s):** N/A**Date(s) of Investigation:** May 13, 2020**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** June 16, 2020



**Ann Ridlehuber**  
RN102319829  
Docket No. 2020-0875-IHW-E

**Violation Information**

1. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1)].
2. Failed to conduct hazardous waste determination and waste classifications [40 C.F.R. § 262.11 and 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504].
3. Failed to keep hazardous waste containers closed, except when adding or removing waste [40 C.F.R. § 265.173(a) and 30 TEX. ADMIN. CODE § 335.69(d)(1)].
4. Failed to comply with the 180-day accumulation time limitation for the storage of industrial hazardous waste (“IHW”) [40 C.F.R. § 262.16(b) and 30 TEX. ADMIN. CODE § 335.69(f)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Securely close all containers containing hazardous waste;
  - b. Conduct waste determinations and waste classifications on all waste streams generated at the Facility; and
  - c. Remove all waste from the Facility, including storage bags of IHW and coating and plating waste, and dispose of it at an authorized facility.
2. Within 60 days, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program (“TRRP”), and submit the investigation results.
3. Within 105 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.c.
4. Respond completely and adequately to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by TCEQ.
5. If the Executive Director determines that response actions are necessary, submit an Affected Property Assessment Report (“APAR”).
6. If the Executive Director determines that the APAR indicates that additional response actions are necessary, comply with and perform, all applicable requirements of TRRP.
7. If the Executive Director determines that the APAR indicates that additional response actions are necessary, submit, by the deadline prescribed by the Executive Director, written certification to demonstrate compliance with Technical Requirement No. 6.

**Ann Ridlehuber**  
RN102319829  
Docket No. 2020-0875-IHW-E

**Litigation Information**

**Date Petition(s) Filed:** June 25, 2021; August 19, 2021; May 20, 2022  
**Date Green Card(s) Signed:** unclaimed; August 21, 2021; June 14, 2022  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Taylor Pearson, Litigation Division, (512) 239-3400  
Garrett Arthur, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Stephanie McCurley, Enforcement, (512) 239-2607  
**TCEQ Regional Contact:** David Mann, Waco Regional Office, (254) 751-0335  
**Respondent Contact:** Ann Ridlehuber, 213 Highway Contract Route 1367, Hillsboro, Texas 76645  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	22-Jun-2020			
	<b>PCW</b>	9-Mar-2021	<b>Screening</b>	25-Jun-2020	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ann Ridlehuber
<b>Reg. Ent. Ref. No.</b>	RN102319829
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59496	<b>No. of Violations</b>	4
<b>Docket No.</b>	2020-0875-IHW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephanie McCurley
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$26,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$2,625
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Notes: Reduction due to High Performer classification.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$9,138  
 Estimated Cost of Compliance: \$58,465  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$23,625
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	11.1%	Adjustment	\$2,625
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to offset High Performer classification.

<b>Final Penalty Amount</b>	\$26,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$26,250
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<b>DEFERRAL</b>		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$26,250
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**Screening Date** 25-Jun-2020

**Docket No.** 2020-0875-IHW-E

**PCW**

**Respondent** Ann Ridlehuber

*Policy Revision 4 (April 2014)*

**Case ID No.** 59496

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102319829

**Media** Industrial and Hazardous Waste

**Enf. Coordinator** Stephanie McCurley

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Reduction due to High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

Screening Date 25-Jun-2020

Docket No. 2020-0875-IHW-E

PCW

Respondent Ann Ridlehuber

Policy Revision 4 (April 2014)

Case ID No. 59496

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102319829

Media Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121(a)

Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW") into or adjacent to any water in the state. Specifically, 2,500 gallons of coating and plating waste were disposed of at the Facility and leaked through a metal wall onto the driveway.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			x		15.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 43

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the May 13, 2020 investigation date to the June 25, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,220

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Ann Ridlehuber  
**Case ID No.** 59496  
**Reg. Ent. Reference No.** RN102319829  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,592	4-Oct-2018	18-Nov-2021	3.13	\$405	n/a	\$405
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50,000	4-Oct-2018	18-Nov-2021	3.13	\$7,815	n/a	\$7,815

**Notes for DELAYED costs**

Estimated delayed cost to remove the 2,500 gallons of ISW from the Facility and dispose of it at an authorized facility (\$2,592). The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Estimated delayed cost to submit a report demonstrating the applicability of Texas Risk Reduction Program ("TRRP") to the Executive Director, and to comply with all applicable requirements of TRRP (\$50,000). The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$52,592	<b>TOTAL</b>	\$8,220
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Screening Date 25-Jun-2020

Docket No. 2020-0875-IHW-E

PCW

Respondent Ann Ridlehuber

Policy Revision 4 (April 2014)

Case ID No. 59496

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102319829

Media Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.503(a), 335.504, and 335.62, and 40 Code of Federal Regulations ("CFR") § 262.11

Violation Description

Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for coating and plating waste.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$656

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750



## Economic Benefit Worksheet

**Respondent** Ann Ridlehuber  
**Case ID No.** 59496  
**Reg. Ent. Reference No.** RN102319829  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$4,200	4-Oct-2018	18-Nov-2021	3.13	\$656	n/a	\$656

**Notes for DELAYED costs**

Estimated delayed cost to conduct waste determinations and waste classifications. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$4,200

**TOTAL**

\$656

Screening Date 25-Jun-2020

Docket No. 2020-0875-IHW-E

PCW

Respondent Ann Ridlehuber

Policy Revision 4 (April 2014)

Case ID No. 59496

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102319829

Media Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.69(d)(1) and 40 CFR § 265.173(a)

Violation Description Failed to keep hazardous waste containers closed, except when adding or removing waste. Specifically, open hazardous waste containers were observed at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 43 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the May 13, 2020 investigation date to the June 25, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Ann Ridlehuber  
**Case ID No.** 59496  
**Reg. Ent. Reference No.** RN102319829  
**Media** Industrial and Hazardous Waste  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Oct-2018	18-Nov-2021	3.13	\$16	n/a	\$16

Notes for DELAYED costs

Estimated delayed cost to securely close all containers containing hazardous waste. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$16

Screening Date 25-Jun-2020

Docket No. 2020-0875-IHW-E

PCW

Respondent Ann Ridlehuber

Policy Revision 4 (April 2014)

Case ID No. 59496

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102319829

Media Industrial and Hazardous Waste

Enf. Coordinator Stephanie McCurley

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.69(f) and 40 CFR § 262.16(b)

Violation Description Failed to comply with the 180-day accumulation time limitation for the storage of industrial hazardous waste ("IHW"). Specifically, two hazardous waste storage bags containing approximately 5 cubic yards of waste labeled with an accumulation start date of October 21, 2011 were located at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 43 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$7,500

Two monthly events are recommended from the May 13, 2020 investigation date to the June 25, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Level (Extraordinary, Ordinary, N/A) and checkboxes.

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$246

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Ann Ridlehuber  
**Case ID No.** 59496  
**Reg. Ent. Reference No.** RN102319829  
**Media** Industrial and Hazardous Waste  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,573	4-Oct-2018	18-Nov-2021	3.13	\$246	n/a	\$246
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to remove two hazardous waste storage bags containing approximately 5 cubic yards of waste from the Facility and dispose of it at an authorized facility. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$1,573

**TOTAL**

\$246

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN605581776, RN102319829, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605581776, Ann Ridlehuber **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN102319829, J & R Coatings Specialist **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 1 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 718 Abbott Avenue in Hillsboro, Hill County, Texas

**TCEQ Region:** REGION 09 - WACO

**ID Number(s):**  
**INDUSTRIAL AND HAZARDOUS WASTE EPA ID** TXR000048306 **INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER** R09102319829

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** December 30, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 30, 2015 to December 30, 2020

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Stephanie McCurley **Phone:** (512) 239-2607

## **Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

## **Components (Multimedia) for the Site Are Listed in Sections A - J**

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

### **F. Environmental audits:**

N/A

### **G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ANN RIDLEHUBER;  
RN102319829**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2020-0875-IHW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Ann Ridlehuber (“Respondent”).

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Respondent owns and operates a former metal plating operation located at 718 Abbott Avenue in Hillsboro, Hill County, Texas (the “Facility”). The Facility involves or involved the management of industrial solid waste (“ISW”) and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on May 13, 2020, an investigator documented that Respondent:
  - a. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW into or adjacent to any water in the state. Specifically, 2,500 gallons of coating and plating waste were disposed of at the Facility and leaked through a metal wall onto the driveway;
  - b. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for coating and plating waste;
  - c. Failed to keep hazardous waste containers closed, except when adding or removing waste. Specifically, open hazardous waste containers were observed at the Facility; and
  - d. Failed to comply with the 180-day accumulation time limitation for the storage of industrial hazardous waste (“IHW”). Specifically, two hazardous waste storage bags containing approximately 5 cubic yards of waste labeled with an accumulation start date of October 21, 2011, were located at the Facility.
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ann Ridlehuber” (the “EDPRP”) in the TCEQ Chief Clerk’s office on June 25, 2021.
4. The Executive Director filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an



Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ann Ridlehuber” (the “EDFARP”) in the TCEQ Chief Clerk’s office on August 19, 2021.

5. The Executive Director refiled the EDFARP on May 20, 2022.
6. By letter dated May 20, 2022, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com “Track & Confirm” delivery confirmation records, Respondent received notice of the EDFARP on June 14, 2022.
7. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct hazardous waste determinations and waste classifications, in violation of 40 C.F.R. § 262.11 and 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to keep hazardous waste containers closed, except when adding or removing waste, in violation of 40 C.F.R. § 265.173(a) and 30 TEX. ADMIN. CODE § 335.69(d)(1).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to comply with the 180-day accumulation time limitation for the storage of IHW, in violation of 40 C.F.R. § 262.16(b) and 30 TEX. ADMIN. CODE § 335.69(f).
6. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of twenty-six thousand two hundred fifty dollars (\$26,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of twenty-six thousand two hundred fifty dollars (\$26,250.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Ann Ridlehuber; Docket No. 2020-0875-IHW-E" to:
  - Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Securely close all containers containing hazardous waste, in accordance with 40 C.F.R. § 265.173(a) and 30 TEX. ADMIN. CODE § 335.69(d)(1);
    - ii. Conduct waste determinations and waste classifications on all waste streams generated at the Facility, in accordance with 40 C.F.R. § 262.11 and 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504; and
    - iii. Remove all waste from the Facility, including storage bags of IHW and coating and plating waste, and dispose of it at an authorized facility;
  - b. Within 60 days after the effective date of this Order, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP"), 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director, via the Order Compliance Team, to the address listed in Ordering Provision No. 3.d. The investigation results shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent and shall include the certification language found in Ordering Provision No. 3.d;
  - c. Within 105 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.;
  - d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and:

Waste Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

- e. Respond completely and adequately, as determined by TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by TCEQ;
  - f. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, by the deadline prescribed by the Executive Director, submit an Affected Property Assessment Report (“APAR”), pursuant to 30 TEX. ADMIN. CODE § 350.91, to Executive Director, in accordance with Ordering Provision No. 3.d., and to any additional addresses as directed by the Executive Director;
  - g. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall comply with and perform, by the deadline prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111); and
  - h. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.g.
4. All relief not expressly granted in this Order is denied.
  5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
  6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF TAYLOR W. PEARSON

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ann Ridlehuber" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 25, 2021.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ann Ridlehuber" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on August 19, 2021.


The EDFARP was refiled in the TCEQ Chief Clerk's office on May 20, 2022.

The EDFARP was mailed to Respondent's last known address on May 20, 2022, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on June 14, 2022.

More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing."

"My name is Taylor Wayne Pearson and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 5<sup>th</sup> day of July, 2022

  
\_\_\_\_\_  
Declarant